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REMARKS

In the Office Action of June 24, 2004, the Examiner noted that claims 1-11 are pending in the application, and that claims 1-11 are rejected. By this Amendment, claims 1, 10 and 11 have been amended, and new claims 12-27 have been added. Thus, claims 1-27 are pending in this application.

The Examiner's rejections are respectfully traversed below.

Rejection Under 35 USC § 112

Claim 11 is rejected as being indefinite. Applicant respectfully traverses this rejection. Although Applicant believes that claim 11 is in fact definite, Applicant has corrected the noted informality by the Examiner, and amended claim 11 accordingly.

Accordingly, Applicant respectfully submits that Claim 11 satisfies the requirements under 35 USC § 112. Withdrawal of this rejection is respectfully requested.

Rejection Under 35 USC § 101

Claims 1-11 are rejected as claiming the same invention as claimed in U.S. 6,684,199 to the same inventor and assignee. Applicant respectfully traverses this rejection.

The present invention is directed to a technique for authenticating data and/or a data medium in order to prevent unauthorized copying. More particularly, the invention makes use of one or more authentication keys which intentionally interferes with or alters normal output data to produced otherwise incorrect data (page 55-56). After being generated, these keys are

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embedded and hidden within data stored on the medium. In use, the authentication keys are identifiable by decoding the data (see, e.g., page 50). Subsequently, the keys may be used to remove the errors from the medium or, in other words, produce error-free or decoded data from the medium (page 61). As such, data and/or a medium may be verified as being a legitimate copy by locating and identifying an authentication key, which may then be used to produce audio, sensible and/or usable output. The claims recites an independent combination of elements including, for example, outputting said data as at least one of audio, video, audio data, video data and digital data substantially free of the predetermined error. modulation of the at least one modified modulation rule.”

Stebbing U.S. Patent No. 6,684,199 (hereinafter Stebbings), however, does not claim the identical combination of limitations as in the present application. Applicant has amended the currently claims to provide complimentary patent protection that in not identical to Stebbings. See amended claims 1, 10 and 11. In addition, Applicant is submitting concurrently herewith a Terminal Disclaimer to obviate any possible obviousness-type double patenting issues. Accordingly, Applicant respectfully submits that Claims 1-11 satisfy the requirements under 35 USC § 101. Withdrawal of this rejection is respectfully requested.

For all of the reasons discussed above, withdrawal of the current rejections is respectfully requested.

CONCLUSION

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, Applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

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Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicant reserves the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents.

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Further, Applicant hereby retracts any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicant specifically retracts statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.

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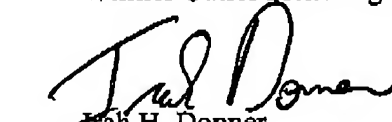
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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